

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Francisco Trejo

Plaintiff

v.

**Life Insurance Company
of North America**

Defendants

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CIVIL NO.: 4:20-cv-3047

ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

NOW COMES Francisco Trejo, Plaintiff herein, complaining of Life Insurance Company of North America, Defendant, and for cause of action would show:

1. Plaintiff resided in Flatonia Texas, which is in the Southern District of Texas, at the times material to this cause of action.
2. Defendant, Life Insurance Company of North America, (hereinafter referred to as ("LINA")) is an insurance corporation duly and legally formed under the laws of Pennsylvania, which does business in the State of Texas and may be served with citation herein by serving its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas, 75201-3136.
3. This court has original jurisdiction of this case under 29 U.S.C. § 1132(e). Plaintiff brings suit under the civil enforcement provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"), specifically including 29 U.S.C. § 1132

(a)(1)(B). Plaintiff is a participant in or beneficiary of an employee welfare benefit plan, which provides benefits under an insurance policy issued by LINA. Plaintiff seeks to recover benefits due under the plan, to enforce his rights under the terms of the plan, and to clarify his rights to future benefits under the terms of the plan.

4. Plaintiff further brings suit under 29 U.S.C. § 1133. After properly appealing the denial of benefits under the plan, LINA failed to provide Plaintiff a full and fair appeal.
5. Plaintiff was employed by Dairy Farmers of America, Inc. in November 2017, when he became disabled. Plaintiff was subsequently found to be disabled by the Social Security Administration under its standards as of November 27, 2017, and continuously thereafter. At the time he became disabled, Plaintiff was insured for Long Term Disability (LTD) benefits under a policy of insurance, issued by LINA to Dairy Farmers of America, Inc. identified as policy number LK-963048 and insuring Plaintiff.
6. Plaintiff properly submitted a claim for LTD benefits to LINA, identified as claim number 10708080-01, which was approved and paid through September 26, 2019, but thereafter denied. Plaintiff then properly appealed to the designated fiduciary of the plan but Plaintiff's final appeal was denied on June 2, 2020.
7. Plaintiff has exhausted all administrative remedies available to him under the plan. All conditions precedent to this cause of action have been met or have

occurred.

8. The policy at issue in this case does not lawfully delegate discretionary authority to LINA. LINA's benefit determinations are therefore subject to *de novo* review.
9. Plaintiff is entitled to recover under the civil enforcement provisions of ERISA and seeks the benefits he has been denied, clarification of his right to receive future benefits under the policy, attorney's fees and expenses incurred herein and other appropriate equitable relief.

WHEREFORE, Plaintiff prays that Defendant be cited to appear herein and answer and that on final hearing, he have judgment against Defendant for his damages, plus pre-judgment and post-judgment legal interest, for costs of suit, for reasonable attorney's fees and expenses incurred and that Plaintiff have a clarification of his right to receive future benefits under the Plan, to which he may show himself justly entitled under the attending facts and circumstances.

Respectfully submitted,

By: /s/ Lonnie Roach
LONNIE ROACH
Attorney-in-Charge
State Bar No. 16967600
Federal Bar No. 377174

BEMIS, ROACH & REED
4100 Duval Road, Bldg. I, Suite 200
Austin, Texas 78759
(512) 454-4000 Telephone
(512) 453-6335 Facsimile
lonnie@brrlaw.com

ATTORNEYS FOR PLAINTIFF